IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

XIA ZHAO and DAVID EHRMANN,

:

Plaintiffs,

:

v.

: CIVIL ACTION

: NO. 2:11-CV-07514-WY

SKINNER ENGINE COMPANY;

FRANCIS SHAW & CO., LTD.; FRANCIS

SHAW & CO. (MANCHESTER) LTD.; FRANCIS SHAW CABLE MACHINERY;

BARWELL POLYMER MACHINERY
CO.; POLYMER MACHINERY CO.;
FARRELL CORPORATION a/k/a HF

MIXING GROUP; HF RUBBER MACHINERY, INC.; and SHAR

SYSTEMS, INC.

:

Defendants.

ORDER

AND NOW, this 8th day of November 2012, upon careful consideration of defendants' motion to dismiss for lack of jurisdiction and for failure to state a claim (Doc. # 45), and plaintiffs' opposition thereto, **IT IS HEREBY ORDERED** that:

- 1. With respect to the alleged breach of an express warranty in count III, the defendants' motion to dismiss is **GRANTED** and that claim is **DISMISSED WITH PREJUDICE**.
- 2. Francis Shaw & Co., Ltd. and Francis Shaw Cable Machinery are **DISMISSED** from this suit for lack of personal jurisdiction. However, this dismissal is **WITHOUT PREJUDICE** to plaintiffs' right to conduct discovery into jurisdictional issues for a period of sixty days from the date of this order and submit a supplemental memorandum within ten days of the close of discovery, if plaintiffs decide to pursue these two defendants. If plaintiffs submit to the court a supplemental memorandum concerning the jurisdictional issues of said defendants, the defendants will have ten days to submit a supplemental reply memorandum to the court.

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3. The remainder of the Francis Shaw defendants' motion to dismiss under Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6) is **DENIED**.

s/ William H. Yohn Jr.
William H. Yohn Jr., Judge